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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 31, 2000

APPLICATION OF

GTE SOUTH INCORPORATED  
(Contel, Virginia)

CASE NO. PUC940009

Annual Informational Filing

ORDER DIRECTING REFUND OF REMAINING EXCESSIVE EARNINGS

On November 2, 1999, the Commission entered an Order Directing Partial Refund requiring GTE South Incorporated (Contel, Virginia) ("Contel") to make a partial refund to its customers for excessive earnings during 1993, pursuant to the provisions of Paragraph 20 of the Commission's Experimental Plan for Alternative Regulation of Virginia Telephone Companies ("Plan"). On November 19, 1999, the Commission issued an Order Granting Petition For Reconsideration, which provided that interest would be calculated from July 1, 1993 ("the November Orders"). The November Orders required Contel to refund \$1,242,800 plus accrued interest to its customers as the first installment of a bifurcated refund and continued the matter pending the outcome of the Virginia Supreme Court's decision in the appeal of S.C.C. Case No. PUC950019. The November Orders approved Contel's proposal for a bifurcated refund because the refund's final amount depended on resolution of the Commission's

jurisdictional separations adjustment then on appeal to the Virginia Supreme Court:

If the Virginia Supreme Court upholds the Commission's separation adjustment in the appeal of Case No. PUC950019, the balance of the refund will be made promptly pursuant to a Commission Order. (Order, p. 2).

On March 3, 2000, the Virginia Supreme Court rendered its decision in the appeal of S.C.C. Case No. PUC950019 and upheld the Commission's separations adjustment.<sup>1</sup>

The Commission finds that Contel should proceed with refunding the remaining balance of \$1,959,482 of excessive earnings for 1993<sup>2</sup> plus accrued interest. Both the refunds directed herein, and those set out in the November Orders, should be made no later than May 31, 2000.

IT IS THEREFORE ORDERED THAT:

(1) GTE South Incorporated (Contel, Virginia) shall refund to its customers the balance of \$1,959,482 of excessive earnings for 1993 plus accrued interest; and all refunds, including those set out in the November Orders, shall be made no later than

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<sup>1</sup> GTE South Incorporated v. AT&T Communications of Virginia, Inc., et al., No. 991964, 2000 WL 257121, at \*4 (Va. Mar. 3, 2000).

<sup>2</sup> This amount is the difference between the amount Staff initially requested be refunded in the July 6, 1999, motion of \$3,202,282 plus interest and the amount Contel was directed to refund in the November 2, 1999, Order of \$1,242,800 plus interest.

May 31, 2000, and pursuant to the same terms as provided in the Orders of November 2, 1999, and November 19, 1999.

(2) Interest upon such refunds shall be computed from July 1, 1993, until the date refunds are made, at an average prime rate for each calendar quarter. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or the Federal Reserve's Selected Interest Rates ("Selected Rates") (Statistical Release G.13), for the three months of the preceding calendar quarter.

(3) The interest shall be compounded quarterly beginning July 1, 1993.

(4) Refunds shall be distributed to 1993 customers based on each customer's proportion of 1993 billed revenues to the total Virginia jurisdictional annual revenues, with respect to Basic, Discretionary, and Potentially Competitive Services.

(5) The refunds ordered above may be accomplished by credit to each customer's account for current customers. Contel should attempt to make refunds to former customers by mailing a check for refunds of \$1 or more to the last known address of the customers. Contel need not mail checks for refunds less than \$1 to former customers; however, Contel shall prepare and maintain a list of the former accounts which are due refunds of less than \$1, and if

such former customers contact Contel and request their refunds, those refunds shall be made promptly. For customers who have outstanding balances, Contel may use such balances to offset the credit or refund to the extent such balances are undisputed. To the extent that an outstanding balance of such a customer is disputed, no offset shall be permitted. An amount representing the total of refunds ordered herein, but remaining unclaimed as of the date 12 months from the entry of this Order, shall be forwarded by GTE to the Comptroller of the Commission who shall receive such funds to be designated as the Virginia Telecommunications Public Education Initiatives Account. Funds deposited into said account shall be expended at the direction of the Commission to develop a telecommunications consumer education program. The program shall provide information about customers' options, rights, and obligations pursuant to the Telecommunications Act of 1996 and such other information the Commission deems necessary and appropriate in the public interest.

(6) On or before June 15, 2000, Contel shall file with the Division of Communications a report and associated workpapers explaining how all refunds have been lawfully made pursuant to this Order.

(7) The tariffed rates of GTE South (Contel) for the year 1993 are no longer interim and shall be subject to no additional

refunds other than those set out in the November Orders and herein.

(8) Contel shall bear all costs of the refund directed in this Order.

(9) This matter shall be continued to receive the report required by Paragraph No. (6) and for further orders of the Commission.